



General Assembly

**Substitute Bill No. 1179**

January Session, 2007

\* SB01179ENV\_\_041807\_\_ \*

**AN ACT REQUIRING ECONOMIC IMPACT ANALYSES FOR  
PROPOSED REGULATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 4-168 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2007*):

4 (a) Except as provided in subsection (g) of this section, an agency,  
5 prior to adopting a proposed regulation, shall: (1) Give at least thirty  
6 days' notice by publication in the Connecticut Law Journal of its  
7 intended action. The notice shall include (A) either a statement of the  
8 terms or of the substance of the proposed regulation or a description  
9 sufficiently detailed so as to apprise persons likely to be affected of the  
10 issues and subjects involved in the proposed regulation, (B) a  
11 statement of the purposes for which the regulation is proposed, (C) a  
12 reference to the statutory authority for the proposed regulation, (D)  
13 when, where and how interested persons may obtain a copy of the  
14 economic impact and regulatory flexibility analyses required pursuant  
15 to section 4-168a, as amended by this act, and [(D)] (E) when, where  
16 and how interested persons may present their views on the proposed  
17 regulation; (2) give notice by mail to each joint standing committee of  
18 the General Assembly having cognizance of the subject matter of the  
19 proposed regulation; (3) give notice by mail to all persons who have

20 made requests to the agency for advance notice of its regulation-  
21 making proceedings. The agency may charge a reasonable fee for such  
22 notice based on the estimated cost of providing the service; (4) provide  
23 a copy of the proposed regulation and the economic impact and  
24 regulatory flexibility analyses required pursuant to section 4-168a, as  
25 amended by this act, to persons requesting it. The agency may charge a  
26 reasonable fee for copies in accordance with the provisions of section  
27 1-212; (5) following publication of the notice in the Connecticut Law  
28 Journal, prepare a fiscal note, including (A) an estimate of the cost or of  
29 the revenue impact on the state or any municipality of the state, and  
30 (B) the economic impact analysis and, if applicable, the regulatory  
31 flexibility analysis prepared under section 4-168a, as amended by this  
32 act. The governing body of any municipality, if requested, shall  
33 provide the agency, within twenty working days, with any  
34 information that may be necessary for analysis in preparation of such  
35 fiscal note; (6) afford all interested persons reasonable opportunity to  
36 submit data, views or arguments, orally at a hearing granted under  
37 subdivision (7) of this subsection or in writing, and to inspect and copy  
38 the fiscal note prepared pursuant to subdivision (5) of this subsection;  
39 (7) grant an opportunity to present oral argument if requested by  
40 fifteen persons, by a governmental subdivision or agency or by an  
41 association having not less than fifteen members, if notice of the  
42 request is received by the agency within fourteen days after the date of  
43 publication of the notice; and (8) consider fully all written and oral  
44 submissions respecting the proposed regulation and revise the fiscal  
45 note in accordance with the provisions of subdivision (5) of this  
46 subsection to indicate any changes made in the proposed regulation.  
47 No regulation shall be found invalid due to the failure of an agency to  
48 give notice to each committee of cognizance pursuant to subdivision  
49 (2) of this subsection, provided one such committee has been so  
50 notified.

51 Sec. 2. Section 4-168a of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective October 1, 2007*):

53 (a) As used in this section:

54 (1) "Agency", "proposed regulation" and "regulation" shall have the  
55 same meanings as provided in section 4-166; and

56 (2) "Small business" means a business entity, including its affiliates,  
57 that (A) is independently owned and operated and (B) employs fewer  
58 than fifty full-time employees or has gross annual sales of less than  
59 five million dollars, provided that an agency, in adopting regulations  
60 in accordance with the provisions of this chapter, may define "small  
61 business" to include a greater number of full-time employees, not to  
62 exceed applicable federal standards or five hundred, whichever is less,  
63 if necessary to meet the needs and address specific problems of small  
64 businesses.

65 (b) (1) Prior to the adoption of any proposed regulation on and after  
66 October 1, 2007, each agency shall prepare an economic impact  
67 analysis that identifies the impact the regulatory action may have on  
68 small businesses, including an estimate of the number of small  
69 businesses subject to the proposed regulation, the projected costs,  
70 including reporting, recordkeeping and administration, and other  
71 costs required for compliance with the proposed regulation.

72 (2) Prior to the adoption of any proposed regulation, [on and after  
73 October 1, 1994,] each agency shall prepare a regulatory flexibility  
74 analysis in which the agency shall, where consistent with public  
75 health, safety and welfare, consider utilizing regulatory methods that  
76 will accomplish the objectives of applicable statutes while minimizing  
77 adverse impact on small businesses. The agency shall consider,  
78 without limitation, each of the following methods of reducing the  
79 impact of the proposed regulation on small businesses:

80 [(1)] (A) The establishment of less stringent compliance or reporting  
81 requirements for small businesses;

82 [(2)] (B) The establishment of less stringent schedules or deadlines  
83 for compliance or reporting requirements for small businesses;

84 [(3)] (C) The consolidation or simplification of compliance or

85 reporting requirements for small businesses;

86 [(4)] (D) The establishment of performance standards for small  
87 businesses to replace design or operational standards required in the  
88 proposed regulation; and

89 [(5)] (E) The exemption of small businesses from all or any part of  
90 the requirements contained in the proposed regulation.

91 (c) Prior to the adoption of any proposed regulation that may have  
92 an adverse impact on small businesses, each agency shall notify the  
93 Department of Economic and Community Development and the Office  
94 of the Business Advocate of its intent to adopt the proposed regulation.  
95 [The Department of Economic and Community Development] Said  
96 department and office shall advise and assist agencies in complying  
97 with the provisions of this section.

98 (d) The requirements contained in this section shall not apply to  
99 emergency regulations issued pursuant to subsection (c) of section 4-  
100 168; regulations that do not affect small businesses directly, including,  
101 but not limited to, regulations concerning the administration of federal  
102 programs; regulations concerning costs and standards for service  
103 businesses such as nursing homes, long-term care facilities, medical  
104 care providers, day care facilities, water companies, nonprofit 501(c)(3)  
105 agencies, group homes and residential care facilities; and regulations  
106 adopted to implement the provisions of sections 4a-60g to 4a-60i,  
107 inclusive.

108 Sec. 3. Section 4-168b of the general statutes is repealed and the  
109 following is substituted in lieu thereof (*Effective October 1, 2007*):

110 (a) Each agency shall maintain an official regulation-making record  
111 for the period required by law for each regulation it proposes in  
112 accordance with the provisions of section 4-168, as amended by this  
113 act. The regulation-making record and materials incorporated by  
114 reference in the record shall be available for public inspection and  
115 copying.

116 (b) The agency regulation-making record shall contain: (1) Copies of  
117 all publications in the Connecticut Law Journal with respect to the  
118 regulation or the proceeding upon which the regulation is based; (2) a  
119 copy of any written analysis prepared for the proceeding upon which  
120 the regulation is based, including the economic impact and regulatory  
121 flexibility analyses required pursuant to section 4-168a, as amended by  
122 this act; (3) all written petitions, requests, submissions, and comments  
123 received by the agency and considered by the agency in connection  
124 with the formulation, proposal or adoption of the regulation or the  
125 proceeding upon which the regulation is based; (4) the official  
126 transcript, if any, of proceedings upon which the regulation is based  
127 or, if not transcribed, any tape recording or stenographic record of  
128 such proceedings, and any memoranda prepared by any member or  
129 employee of the agency summarizing the contents of the proceedings;  
130 (5) a copy of all official documents relating to the regulation, including  
131 the regulation filed in the office of the Secretary of the State, a  
132 statement of the principal considerations in opposition to the agency's  
133 action, and the agency's reasons for rejecting such considerations, as  
134 required pursuant to section 4-168, as amended by this act, and the  
135 fiscal note prepared pursuant to subsection (a) of said section 4-168  
136 and section 4-170, as amended by this act; (6) a copy of any petition for  
137 the regulation filed pursuant to section 4-174; and (7) copies of all  
138 comments or communications between the agency and the legislative  
139 regulation review committee.

140 (c) The agency regulation-making record need not constitute the  
141 exclusive basis for agency action on that regulation or for judicial  
142 review thereof.

143 Sec. 4. Subsection (b) of section 4-170 of the general statutes is  
144 repealed and the following is substituted in lieu thereof (*Effective*  
145 *October 1, 2007*):

146 (b) (1) No adoption, amendment or repeal of any regulation, except  
147 a regulation issued pursuant to subsection (f) of section 4-168, shall be  
148 effective until (A) the original of the proposed regulation approved by

149 the Attorney General, as provided in section 4-169, the economic  
150 impact and regulatory flexibility analyses as provided in section 4-  
151 168a, as amended by this act, and eighteen copies thereof are  
152 submitted to the standing legislative regulation review committee at  
153 the designated office of the committee, in a manner designated by the  
154 committee, by the agency proposing the regulation, (B) the regulation  
155 is approved by the committee, at a regular meeting or a special  
156 meeting called for the purpose, and (C) the regulation is filed in the  
157 office of the Secretary of the State by the agency, as provided in section  
158 4-172. (2) The date of submission for purposes of subsection (c) of this  
159 section shall be the first Tuesday of each month. Any regulation  
160 received by the committee on or before the first Tuesday of a month  
161 shall be deemed to have been submitted on the first Tuesday of that  
162 month. Any regulation submitted after the first Tuesday of a month  
163 shall be deemed to be submitted on the first Tuesday of the next  
164 succeeding month. (3) The form of proposed regulations which are  
165 submitted to the committee shall be as follows: New language added  
166 to an existing regulation shall be in capital letters or underlining, as  
167 determined by the committee; language to be deleted shall be enclosed  
168 in brackets and a new regulation or new section of a regulation shall be  
169 preceded by the word "(NEW)" in capital letters. Each proposed  
170 regulation shall have a statement of its purpose following the final  
171 section of the regulation. (4) The committee may permit any proposed  
172 regulation, including, but not limited to, a proposed regulation which  
173 by reference incorporates in whole or in part, any other code, rule,  
174 regulation, standard or specification, to be submitted in summary form  
175 together with a statement of purpose for the proposed regulation. On  
176 and after October 1, 1994, if the committee finds that a federal statute  
177 requires, as a condition of the state exercising regulatory authority,  
178 that a Connecticut regulation at all times must be identical to a federal  
179 statute or regulation, then the committee may approve a Connecticut  
180 regulation that by reference specifically incorporates future  
181 amendments to such federal statute or regulation provided the agency  
182 that proposed the Connecticut regulation shall submit for approval  
183 amendments to such Connecticut regulations to the committee not

184 later than thirty days after the effective date of such amendment, and  
 185 provided further the committee may hold a public hearing on such  
 186 Connecticut amendments. (5) The agency shall prepare a fiscal note,  
 187 including an estimate of the cost or of the revenue impact on the state  
 188 and any municipality, and shall append a copy of the note to each  
 189 copy of the proposed regulation. At the time of submission to the  
 190 committee, the agency shall mail or submit a copy of the proposed  
 191 regulation and the fiscal note, prepared in accordance with subsection  
 192 (a) of section 4-168, as amended by this act, to (A) the Office of Fiscal  
 193 Analysis which, within seven days of receipt, shall submit an analysis  
 194 of the fiscal note to the committee; and (B) each joint standing  
 195 committee of the General Assembly having cognizance of the subject  
 196 matter of the proposed regulation. No regulation shall be found  
 197 invalid due to the failure of an agency to submit a copy of the  
 198 proposed regulation and the fiscal note to each committee of  
 199 cognizance, provided such regulation and fiscal note has been  
 200 submitted to one such committee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	4-168(a)
Sec. 2	<i>October 1, 2007</i>	4-168a
Sec. 3	<i>October 1, 2007</i>	4-168b
Sec. 4	<i>October 1, 2007</i>	4-170(b)

**CE**            *Joint Favorable Subst.*

**ENV**        *Joint Favorable*